

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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VAL DAY, et al.,

Plaintiff(s),

v.

FORMAN AUTOMOTIVE GROUP,

Defendant(s).

Case No. 2:12-CV-577 JCM (CWH)

ORDER

Presently before the court is defendant Forman Automotive Group's (hereinafter "defendant") third emergency motion to continue trial date. (Doc. # 113).

On May 20, 2015, defendant filed its first emergency motion to continue trial. (Doc. # 106). In that motion, defendant stated that a number of its witnesses had planned vacations in the coming months. Accordingly, defendant asked for a continuance from the existing trial date of June 15, 2015, to a date not sooner than September 7, 2015. (Doc. # 106).

In its first motion, defendant listed the specific dates of its witnesses' vacation plans. Specifically, defendant represented that its president, Mr. Forman, would be out of the country for two weeks beginning June 14, 2015; and again from July 25, 2015, through August 7, 2015. Defendant also noted vacation plans of other witnesses from July 3, 2015, through July 4, 2015; July 21, 2015, through July 24, 2015; July 26, 2015, through August 2, 2015; and for the week of August 17, 2015. Finally, defense counsel stated that he had a family vacation scheduled from "August 29, 2015 through July 5, 2015." (Doc. # 106).

Plaintiff Val Day ("plaintiff") filed a response to defendant's motion, opposing defendant's request on the grounds that a three-month delay would be prejudicial. (Doc. # 108). Reviewing

1 defendant's representations, the court selected the single available week among all the purported  
2 vacation plans and set trial for July 13, 2015. (Doc. # 109).

3 On June 9, 2015, defendant filed its second motion to continue, seeking a continuance to  
4 July 27, 2015. In that motion, defendant claimed that Mr. Forman had a "nearly year-long planned  
5 family vacation on July 12-19, 2015." Defendant stated that Mr. Forman would be available for  
6 trial on any date after July 27, 2015. (Doc. # 110).

7 On June 10, 2015, the court denied defendant's second motion to continue. The court noted  
8 that defendant had omitted the July 12, 2015, vacation from the extensive list in its prior motion,  
9 misrepresenting the availability of its witnesses to the court. The court had relied on defendant's  
10 prior representations in setting the current trial date and therefore declined to entertain any further  
11 continuance requests by defendant. (Doc. # 111).

12 On June 11, 2015, the court issued its order regarding trial, confirming the trial date of July  
13 13, 2015. (Doc. # 112). On June 16, 2015, defendant filed the instant motion, citing Federal Rule  
14 of Civil Procedure 60(b)(1). Defendant again asks the court to continue the trial to a date after  
15 July 27, 2015. (Doc. # 113).

16 In this motion, defense counsel asks that the court grant a continuance based on excusable  
17 neglect. Defense counsel states that it relied upon information provided by defendant in filing its  
18 first motion to continue, but failed to compare that information with the dates set forth in the  
19 motion. Defense counsel notes that defendant had advised counsel of Mr. Forman's unavailability  
20 during the week of July 13, 2015, but that counsel negligently failed to include this information in  
21 the motion and failed to ask defendant to review the motion before filing. (Doc. # 113).

22 Defendant acknowledges that the court's prior order declined to entertain any further  
23 requests for a continuance. However, defendant states that it is filing its motion based on the  
24 court's order regarding trial, which states that "the court will not grant a continuance to any party  
25 absent a showing of good cause." (Doc. # 112).

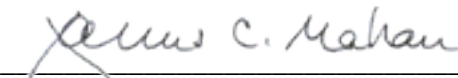
26 The court does not find good cause to grant the instant motion. The court has many other  
27 cases on its docket and relied on defendant's representations in setting the instant trial date. This  
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1 case has been pending since 2012, and no further continuances will be granted absent a showing  
2 of good cause.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant's third  
5 emergency motion to continue, (doc. # 113), be, and the same hereby is, DENIED.

6 DATED June 23, 2015.

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10 UNITED STATES DISTRICT JUDGE  
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